

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

KIMBERLY ROQUEMORE, Individually)	CASE NO. 1:24-CV-01434
and as the Administratrix of the Estate of)	
Maalik Roquemore, Deceased,)	JUDGE DONALD C. NUGENT
)	
Plaintiffs,)	
)	
-vs-)	
)	
CUYAHOGA METROPOLITAN)	
HOUSING AUTHORITY, et al.,)	
)	
Defendants.)	

**PLAINTIFF’S MOTION FOR EXTENSION OF TIME
TO FILE REPLY TO DEFENDANT SMIDDY’S
MOTION TO DISMISS FOR FAILURE OF SERVICE**

Plaintiff Kimberly Roquemore, by and through counsel, hereby moves this Court, with no opposition from Defendant John Smiddy’s (“*Defendant Smiddy*”) counsel, for an extension of time in which to file her reply to Defendant Smiddy’s Motion to Dismiss for failure of service pursuant to Rule 12(b)(4) and 12(b)(5).

Defendant Smiddy’s motion is premature and may ultimately be moot. Plaintiff filed her Original Complaint on August 22, 2024, and Original Summons were issued for service on all Defendants the same day. The Complaint and Summons were also sent to all Defendants via U.S. Postal Service (“*USPS*”) Certified Mail on August 22, 2024. Returns of Service were filed on September 13, 2024, for all Defendants except Defendant Smiddy. Plaintiff’s Counsel became aware of the failure of service on Defendant Smiddy on September 16, 2024, when the package containing the Original Complaint and Summons was returned by USPS. Supplemental Original Summons for service on Defendant Smiddy at his new workplace, Lorain County Metro Parks,

was issued on September 20, 2024, and sent by USPS Certified Mail.

On September 24, 2024, Plaintiff Roquemore filed her Amended Complaint. A Return of Service by certified mail for the Original Complaint served on Defendant Smiddy was filed on October 7, 2024, indicating that service of the Original Complaint on him was completed on October 1, 2024. Because the Amended Complaint was filed before Defendant Smiddy was served with the Original Complaint, Plaintiff addressed the failure of service on the Amended Complaint, the operative complaint, by filing a Praecipe for issuance of Alias Summons to Defendant Smiddy at his home address. The Alias Summons was issued on October 24, 2024, and sent with the Amended Complaint by USPS Certified Mail on October 31, 2024. (*See Cover Letter and USPS Certified Mail Receipt attached as **Exhibit “A”***). According to the USPS tracking, the package containing the Amended Complaint and Alias Summons is scheduled for delivery to Defendant Smiddy on Saturday, November 2, 2024. (*See USPS Tracking Details attached as **Exhibit “B”***).

Based on the reasons outlined above, Plaintiff respectfully requests that this Court grant a 14-day extension, until November 18, 2024, to file her Reply to Defendant Smiddy’s Motion to Dismiss, or, in the alternative, permit Defendant Smiddy to withdraw his Motion to Dismiss once Plaintiff has perfected service of the operative Complaint upon him.

Respectfully submitted,
/s/ David B. Malik

David B. Malik (23763)
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E: david@davidmaliklaw.com
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on November 1, 2024, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ David B. Malik

David B. Malik (23763)

EXHIBIT A



30 October 2024

SENT BY CERTIFIED MAIL RETURN RECEIPT REQUESTED

John Smiddy, Field Training Officer Program Supervisor
Cuyahoga Metropolitan Housing Authority Police Department
33818 Gail Drive
North Ridgeville, Ohio 44039

Re: *Kimberly Roquemore, Individually and as the Administratrix of the Estate of Maalik Roquemore, Deceased v. Cuyahoga County Metropolitan Housing Authority, et al.*
U.S. District Court, Northern District of Ohio, Case No. 1:24-cv-01434
Notice of Lawsuit and Service of Amended Complaint and Alias Summons

Dear Chief Smiddy:

Please be advised that a lawsuit has been filed against you in the U.S. District Court, Northern District of Ohio, under the above-referenced case number. Enclosed with this letter, you will find a copy of the Amended Complaint and Alias Summons.

You are required to respond to the Amended Complaint within the time frame specified in the Alias Summons. Failure to respond in a timely manner may result in a default judgment being entered against you.

Should you have any questions or require further information, please do not hesitate to contact our office at 216.570.3898 or david@davidmalik.com.

Sincerely,
/s/ Christina L. DeZee
Christina L. DeZee
Paralegal to David B. Malik

Enclosures

Malik Law

CIVIL RIGHTS FOR CIVIL WRONGS®
MalikLaw.com

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Chesterland, Ohio 44026

OFFICE 440.729.8260
FAX 440.490.1177

EXHIBIT "A"

7019 2970 0001 4203 1147

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee \$4.85

\$4.10

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$0.00

☐ Return Receipt (electronic) \$0.00

☐ Certified Mail Restricted Delivery \$0.00

☐ Adult Signature Required \$0.00

☐ Adult Signature Restricted Delivery \$0.00

Postage \$3.15

Total Postage and Fees \$

Sent To John Sniddy

Street and Apt. No., or PO Box No. 6818 Gail Drive

City, State, ZIP+4® Niles, OH 44131

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

0391 07

Postmark Here

CLEVELAND OH

OCT 31 2024

10/31/2024

44139 USPS

EXHIBIT B



FAQs >

Tracking Number:

Remove X

70192970000142031147

Copy

Add to Informed Delivery (<https://informedelivery.usps.com/>)

Expected Delivery by

SATURDAY

2 November 2024 ⓘ

by 9:00pm ⓘ

USPS is now in possession of your item as of 9:06 am on October 31, 2024 in SOLON, OH 44139.

Get More Out of USPS Tracking:

USPS Tracking Plus®

- Delivered
- Out for Delivery
- Preparing for Delivery
- In Transit

Accepted
USPS in possession of item
SOLON, OH 44139
October 31, 2024, 9:06 am

Feedback

[What Do USPS Tracking Statuses Mean? \(https://faq.usps.com/s/article/Where-is-my-package\)](https://faq.usps.com/s/article/Where-is-my-package)

Text & Email Updates



USPS Tracking Plus®



Product Information



See Less 

Track Another Package

Need More Help?

Contact USPS Tracking support for further assistance.

[FAQs](#)